

# News Release



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## **U.S. Labor Department Acts to Protects Employees' 401(k) Plan Assets**

**SAN FRANCISCO** – To protect the 401(k) contributions of employees of now-defunct Madsen Mechanical Inc. in Ogden, Utah, the U. S. Department of Labor and the company's former president have reached an agreement that \$24,821 in debt owed to the plan cannot be discharged due to a bankruptcy filing.

Sherry L. Madsen, former president of the Ogden plumbing, heating and air conditioning company, has agreed that she remains responsible for the money owed to the company's 401(k) profit sharing plan. The agreement was entered into the U.S. Bankruptcy Court for the District of Utah, Central Division.

Madsen, who also was a 401(k) trustee, admitted to the department's allegations that she did not forward at least \$24,821 in employee contributions to the plan between January and July of 2002, in violation of the Employee Retirement Income Security Act. The company, which has since gone out of business, deducted the funds from the paychecks of 29 employees. Madsen filed for personal bankruptcy in March 2003.

"This sends a strong message to those responsible for employee benefit plans that they cannot misuse their employees' funds or have their personal debts forgiven at the expense of the employees," said R.C. Marshall, acting regional director of the Labor Department's Employee Benefits Security Administration (EBSA) in San Francisco, which investigated the case.

In fiscal year 2003, EBSA achieved record monetary results of \$1.4 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers with questions or concerns regarding their private-sector pension and health plans can contact the EBSA regional office in San Francisco at (415) 975-4600 or EBSA's toll free number, 1-866-444-EBSA (3272). Information is also available from the agency's web site at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

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(Chao v. Madsen)  
Civil Action No. 03-25231-JAB (Bankruptcy Court)

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